

REMARKS

I. STATUS OF THE CLAIMS

Claims 48-60 have been added. Proper support for newly added claims 48-60 can be found in the specification at least at page 13, lines 4-17. In accordance with the foregoing, claims 1-60 are pending. No new matter is presented, entry and reconsideration are respectfully requested.

II. THE REJECTION OF CLAIMS 1, 2, 4, 7, 8, 10, 13-19, 24, 26, 29, 30, 32, 35-41 AND 45-47 UNDER 35 U.S.C. §103(a) AS BEING UNPATENTABLE OVER TERAHARA

Applicants respectfully traverse this rejection for at least the following reasons.

Terahara and the present application name a same assignee. Accordingly, it is respectfully submitted that 35 U.S.C. §103 (c) applies, so that Terahara should not be a reference under 35 U.S.C. §103.

More respectfully, pursuant to 35 U.S.C. §103(c), "[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Application No. 09/495,708 and U.S. Patent No. 6,366,379 (Terahara) were, at the time the invention of Application No. 09/495,708 was made, commonly owned by Fujitsu Limited. Therefore, Terahara should not be considered as a prior art reference under 35 U.S.C. §103(c).

Accordingly, Applicants respectfully assert that the rejection of claims 1, 2, 4, 7, 8, 10, 13-19, 24, 26, 29, 30, 32, 35-41 and 45-47 should be withdrawn.

Additionally, claims 1, 18, 23 and 40 recite, amongst other novel elements, a light intensity detecting means or unit detecting light from said acoustic optical tunable filter, and a radio-frequency signal controlling means or unit controlling said radio-frequency signal generating means or unit so as to select light of a predetermined wavelength in accordance with an output of said light intensity detecting means or unit.

Claims 14 and 36 recite, amongst other novel elements, light intensity detecting means or a light intensity detecting unit detecting light from said AOTF, and radio-

frequency signal control means or unit controlling said radio-frequency signal generating means or unit so as to select light of a predetermined wavelength in accordance with an output of said light intensity detecting means or unit.

The Office Action relies upon Terahara for such teachings. Applicants respectfully traverse such rejection for the following reasons. Terahara appears to teach, as illustrated in FIG. 1, for example, modulating optical signals with the RF signal source and the optical RF transmitter, wherein the frequency of the signal to be modulated is the same as the RF frequency to drive the AOTF provided at a remote place. Thereafter, the modulated optical signal is received at the optical RF receiver, and **only the RF frequency** component that drives the AOTF is **selected**, and the control/drive circuit drives the AOTF. That is, Terahara can send information on the RF frequency needed to drive the AOTF provided at a remote place, by superimposing the frequency to the main data signal and sending it from the transmitting side. However, this does not assure that the RF frequency is at its optimum value, because the wavelengths that the AOTF selects greatly vary according to the temperature. Accordingly, Terahara fails to provide some type of function to control what wavelengths are selected by the AOTF.

Claims 1, 18, 23 and 40 recite a radio-frequency controlling means or a radio-frequency controlling unit which controls the radio-frequency signal generating means or the radio-frequency generating unit. Therefore, Terahara fails to teach or suggest these novel features recited in independent claims 1, 18, 23 and 40.

Accordingly, Applicants respectfully assert that the rejection of claims 1, 14, 18, 23, 36 and 40 under 35 U.S.C. §103(a) should be withdrawn because Terahara fails to teach or suggest each feature of independent claims 1, 14, 18, 23, 36 and 40.

Furthermore, Applicants respectfully assert that dependent claims 2, 4, 7, 8, 10, 15-16, 19, 24, 26, 29, 30, 32, 37-38 and 41 are allowable at least because of their dependence from claims 1, 14, 18, 23, 36 and 40, and the reasons set forth above.

Regarding independent claims 13, 17, 35 and 39, Terahara, also fails to teach or suggest the novel features recited in these claims.

Accordingly, Applicants respectfully assert that the rejection of claims 13, 17, 35 and 39 under 35 U.S.C. §103(a) should also be withdrawn because Terahara fails to teach or suggest each feature of independent claims 13, 17, 35 and 39.

III. THE REJECTION OF CLAIMS 9 AND 31 UNDER 35 U.S.C. §103(a) AS BEING UNPATENTABLE OVER TERAHARA IN VIEW OF ARONSON

Claims 9 and 31 depend upon independent claims 1 and 23, respectively.

As noted above, 35 U.S.C. §103(c) applies, so that Terahara should not be a reference under 35 U.S.C. §103. Furthermore, Terahara fails to teach or suggest, the novel features recited in independent claims 1 and 23, upon which claims 9 and 31 depend from, respectively.

Aronson discloses an AOTF that uses an externally-generated electric field for controlling birefringence and altering filter properties and a laser tuned by such a filter (column 1, lines 7-11). Accordingly, Aronson fails to cure the deficiencies of Terahara.

Accordingly, Applicants respectfully assert that the rejection of claims 9 and 31 under 35 U.S.C. §103(a) should be withdrawn because neither Terahara nor Aronson, whether taken singly or combined teach or suggest each feature of independent claims 1 and 23, upon which claims 9 and 31, respectively depend from.

IV. THE REJECTION OF CLAIMS 20-22 AND 42-44 UNDER 35 U.S.C. §103(a) AS BEING UNPATENTABLE OVER TERAHARA IN VIEW OF ROBINSON

Applicants respectfully traverse this rejection for at least the following reasons.

As noted above, 35 U.S.C. §103(c) applies, so that Terahara should not be a reference under 35 U.S.C. §103.

Furthermore, claims 20, 22, 42 and 44, recite amongst other novel elements, radio-frequency signal controlling means or a radio-frequency controlling unit controlling said radio-frequency signal generating means or said radio-frequency signal generating unit, so as to select light of a predetermined wavelength in accordance with the output of said light intensity detecting means or said light intensity detecting unit.

Robinson teaches a method and apparatus for determining noninvasively and in vivo one or more unknown values of a known characteristic, particularly the concentration of an analyte in human tissue (abstract). Accordingly, Robinson fails to cure the deficiencies of Terahara.

Accordingly, Applicants respectfully assert that the rejection of independent claims 20, 22, 42 and 44 under 35 U.S.C. §103(a) should be withdrawn because neither

Terahara nor Robinson, whether taken singly or combined teach or suggest each feature of the newly amended independent claims.

Furthermore, Applicants respectfully assert that dependent claims 21 and 43 are allowable at least because of their dependence from claims 20 and 42, respectively, and the reasons set forth above.

V. CONCLUSION

In accordance with the foregoing, it is respectfully submitted that all outstanding rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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